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Docket No. CWA-HQ-99-002

## COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

5. The Respondent is the owner and operator within the meaning of Section 311(a) of the CWA, 33 U.S.C. §1321(a), and 40 C.F.R. §112.2, of one hundred and seventeen (117) telecommunications facilities described in Attachment A ("the facilities").

6. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil...from vessels and from onshore and offshore facilities, and to contain such discharges ....."

7. 40 C.F.R. Part 112 ("Oil Pollution Prevention Regulations") which implements Section 311(j) of the CWA, 33 U.S.C. § 1321(j), sets forth procedures, methods and requirements to prevent the discharge of oil from non-transportation-related facilities into or upon the navigable waters of the United States and adjoining shorelines in such quantities that by regulation have been determined may be harmful to the public health or welfare or environment of the United States by owners or operators who are engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil or oil products.

8. The facilities are on-shore facilities within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10) and 40 C.F.R. Part 112, which, due to their locations, could reasonably be expected to discharge oil to a navigable water of the United States (as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1) or their adjoining shoreline that may either (1) violate applicable water quality standards or (2) cause a film or sheen or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

9. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil or oil products located at the facilities.

10. Respondent's facilities are non-transportation-related facilities under the definition incorporated by reference at 40 C.F.R. § 112.2 and 40 C.F.R. Part 112 Appendix A.

11. Based on the above, and pursuant to CWA Section 311(j) and its implementing regulations, the Respondent is subject to the Oil Pollution Prevention requirements of 40 C.F.R. Part 112.

#### CWA Violations

12. Respondent failed to fulfill the requirements for preparation and implementation of Spill Prevention Countermeasure and Control Plans of the Oil Pollution Prevention regulations at 40 C.F.R. Part 112 at the facilities, and therefore has violated CWA Section 311(j).

#### Relief

13. Section 311(b)(6) of the CWA, as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), authorizes a civil administrative, class II, penalty of up to \$137,500 in an action alleging violations of the CWA. The penalty proposed in this complaint is based upon the facts stated in this Complaint, and on the nature, circumstances, extent, and gravity of the above cited violations, as well as the Respondent's history of prior violations and degree of culpability, in accordance with the Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the CWA.

14. Pursuant to Section 311(b)(6) of the CWA, and based upon the facts stated in paragraphs 4 through 11 above, it is proposed that a civil penalty of \$137,500 dollars, the administrative statutory maximum penalty, be assessed against Respondent for violations alleged in Paragraph 12.

Settlement

15. If Respondent does not contest any material fact of this CWA matter or the amount of the CWA proposed penalty, Respondent may make payment of the penalty, by cashier's or certified check in the amount of \$137,500 and made payable to "Oil Spill Liability Trust Fund" and send to:

Commander, National Pollution Funds Center  
United States Coast Guard  
Ballston Common Office Building, Suite 1000  
4200 Wilson Boulevard  
Arlington, VA 22203

(Note that payment of the proposed penalty alone does not satisfy Respondent's legal obligation to prepare, and implement a SPCC plan as required by CWA Section 311(j) and 40 C.F.R. 112.3(b).)

16. The Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall also submit copies of the checks to the following persons:

Hearing Clerk  
Environmental Appeals Board  
U.S. Environmental Protection Agency  
401 M Street, SW  
Washington, DC 20460

Philip L. Milton, MED  
U.S. Environmental Protection Agency (2248-A)  
401 M Street, SW  
Washington, DC 20460

Answer and Request for Hearing

17. Respondent has the right to request a hearing to contest any material fact contained in this Complaint above or to contest the appropriateness of the proposed penalty set forth herein. Such a hearing will be held and conducted in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, one copy of which is enclosed herewith.

18. To avoid being found in default, which constitutes an admission of all facts alleged in this Complaint and a waiver of the right to hearing, Respondent must file a written answer and request for hearing within twenty (20) days of service of this Complaint and Notice of Opportunity for Hearing. The answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with respect to which Respondent has any knowledge, or shall clearly state that Respondent has no knowledge as to particular factual allegations in this Complaint. The answer shall also state: a) the circumstances or arguments which are alleged to constitute the grounds of defense; b) the facts that Respondent intends to place at issue; and c) whether a hearing is requested.

19. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for hearing. Failure to deny any of the factual allegations in the Complaint constitutes an admission of the undenied allegations. The answer shall be filed with the Headquarters Hearing Clerk, at the following address:

Headquarters Hearing Clerk  
Mail Code 1900  
U.S. Environmental Protection Agency  
401 M Street, SW  
Washington, DC 20460

20. If Respondent fails to file a written answer and request for a hearing within twenty (20) days of service of this Complaint and Notice of Opportunity for Hearing, such failure will constitute a binding admission of all allegations made in this Complaint and a waiver of Respondent's right to a hearing under the CWA. A Default Order may thereafter be issued and the civil penalties proposed herein shall become due and payable without further proceedings.

Informal Settlement Conference

21. Whether or not Respondent requests a hearing, an informal conference may be requested in order to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request a settlement conference, please contact:

Philip L. Milton, MED  
U.S. Environmental Protection Agency (2248-A)  
401 M Street, SW  
Washington, DC 20460  
Telephone: 202-564-5029

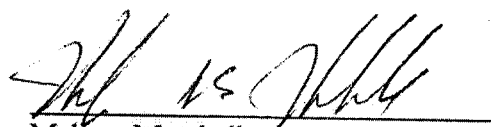
22. Please note that a request for an informal settlement conference does not extend the twenty (20) day period during which a written answer and request for a hearing must be submitted.

23. EPA encourages all parties against whom a civil penalty is proposed to pursue the possibilities of settlement as a result of informal conference. Any settlement which may be

reached as a result of such a conference shall be embodied in a written Consent Agreement and Consent Order. The issuance of such a Consent Agreement and Consent Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated therein.

24. If Respondent has neither achieved a settlement by informal conference nor filed an answer within the twenty (20) day time period allowed by this Notice, the penalties proposed above may be assessed by the entry of a Default Order.

Date 1-25-99



Melissa Marshall  
Director, Multimedia Enforcement Division  
Office of Regulatory Enforcement

Enclosures: Consolidated Rules of Practice Governing the Administrative Assessment of Civil  
Penalties 40 C.F.R. Part 22  
Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the CWA

## Attachment A

## Facility List of SPCC Violations (all facilities failed to prepare SPCC Plans)

<i><b>Name of Building</b></i>	<i><b>Street</b></i>	<i><b>City</b></i>	<i><b>State</b></i>	<i><b>Zip Code</b></i>
El Dorado Central Office	301 W. Main	El Dorado	AR	71730
Little Rock Franklin Central Office	120 WS. 8th	Little Rock	AR	72201
Little Rock Area Headquarters	1111 W. Capitol	Little Rock	AR	72201
Ft. Smith Sunset Central Office	101 N. 13th	Fort Smith	AR	72901
Ft. Smith Gladstone Central Office	8200 Rogers	Fort Smith	AR	72901
Fayetteville 442 Central Office	138 N. East	Fayetteville	AR	72701
Rogers East Central Office	Hwy 12 East	Rogers	AR	72756
Springdale 751 Central Office	701 Emma	Springdale	AR	72764
Hot Springs National Central Office	220 Prospect Ave.	Hot Springs	AR	71901
Hot Springs Rockwall Central Office	207 W. Pine	Hot Springs	AR	71913
Mena 394 Central Office	601 Port Avenue	Mena	AR	71953
Osceola 563 Central Office	115 S. Elm Street	Osceola	AR	72370
Walnut Ridge 886 Central Office	215 W. Pine	Walnut Ridge	AR	72476
Pine Bluff 247 Cherry Central Office	1200 Robin	Pine Bluff	AR	71602
Monticello SOC	131 Greenfield	Monticello	AR	71655
Little Rock Capital 225 Central Office	1001 W. Markham Street	Little Rock	AR	72211
Little Rock Locust SOC	5805 W. 65th Street	Little Rock	AR	72209
Little Rock Springlake Central Office	5701 Landmark Circle	Little Rock	AR	72206
Forrest City 633 Central Office	505 Dillard	Forrest City	AR	72335
Pittsburg Central Office	611 N. Locust	Pittsburg	KS	66762
KC Drexel Central Office	901 N. 10th	Kansas City	KS	66101
Mission Toll	5400 Foxridge	MISSION	KS	66202
Leavenworth Central Office	615 Shawnee	Leavenworth	KS	66048
Corporate Wood Central Office	8686 College	Overland Park	KS	66210
Leavenworth Junction	5 Miles W. of Leavenworth	Leavenworth	KS	66048
Area Headquarters	220 East 6th Street	Topeka	KS	66603
Topeka Dial	812 Jackson	Topeka	KS	66612
Wichita Toll ESS	154 N. Broadway	Wichita	KS	67202
One Bell Center	909 Chestnut St	St. Louis	MO	63101
St. Louis Data Center	801 Chestnut St	St. Louis	MO	63101
Customer Service Center	12851 Manchester Rd.	Des Per	MO	63131
Manchester Central Office	14780 Manchester Rd.	Ballwin	MO	63011
Chesterfield Central Office	16752 Wild Horse Creek Rd	Chesterfield	MO	63005
Desoto Central Office	120 W. Pratt	Desoto	MO	63020
Festus Central Office	122 N. 2nd Street	Festus	MO	63028
Chestnut Central Office	1010 Pine	St. Louis	MO	63101
Maplewood Central Office	7216 Lanham	Maplewood	MO	63143
Forest Central Office	5189 Delmar	St. Louis	MO	63108
Jefferson Central Office	3810 Washington	St. Louis	MO	63108
Dexter Central Office	32 S. Locust	Dexter	MO	63841

<b>Name of Building</b>	<b>Street</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
Kennett Condo	208 College Street	Kennett	MO	63857
Joplin Condo	321 West 8th Street	Joplin	MO	64801
Monnett Condo	511 E. Cale	Monett	MO	65708
KC Independence Central Office	215 N. Spring	Independence	MO	64050
McGee Central Office	1101 McGee	Kansas City	MO	64106
Blue Springs Central Office	300 South 15th Street	Blue Springs	MO	64015
KC South 761 Central Office	5903 Red Bridge	Kansas City	MO	64134
Chillicothe Central Office	501 Cherry Street	Chillicothe	MO	64601
KC Gladestone Central Office	5112 Antioch	Gladstone	MO	64119
Oklahoma City Central	111 Dean McGee	Oklahoma City	OK	73102
Oklahoma Pershing Central Office	702 E. Rickenbacher	Midwest City	OK	73110
Oklahoma City Orange Central Office	3101 S. E. 29th Street	Oklahoma City	OK	73115
Oklahoma City University Central Office	2301 N. Olie	Oklahoma City	OK	73106
Victor Central Office	7000 N. Western	Oklahoma City	OK	73116
Oklahoma City District Office (East)	6100 S. Walker	Oklahoma City	OK	73139
Bartlesville Federal Central Office	119 East 6th Street	Bartlesville	OK	74003
Ada Central Office	110 West 14th Street	Ada	OK	74820
Pauls Valley Central Office	300 South Walnut	Pauls Valley	OK	73075
Tulsa General Adams Central Office	14506 E. Admiral Place	Tulsa	OK	74116
Tulsa Hickory Central Office	2512 W. 41st Place	Tulsa	OK	74107
Jenks Central Office	122 S. 2nd	Jenks	OK	74037
Sapulpa Central Office	302 S. Main	Sapulpa	OK	74066
Tulsa Temple Central Office	6605 E. Admiral Place	Tulsa	OK	74115
Tulsa Woodcrest Central Office	5303 E. 71st Street	Tulsa	OK	74136
Tulsa Toll	510 S. Elgin/509 Detroit	Tulsa	OK	74120
232 Saginaw Central Office	1611 Watauga	Saginaw	TX	76131
274 Crestview Central Office	312 W. Abrams	Arlington	TX	76010
473 Central Office Bridge Building	216 Smith Street	Mansfield	TX	76063
297 Crowley Central Office	308 W. Pecan	Crowley	TX	76036
Benbrook Central Office	1020 Cozby Street	Fort Worth	TX	76126
224 Westland Central Office	3309 Alameda Street	Fort Worth	TX	76116
Westmore Central Office	306 N. Rogers	Waxahachie	TX	75165
Red Oak Central Office	105 Methodist	Red Oak	TX	75146
Mount Pleasant Central Office	307 N. Van Buren	Mount Pleasant	TX	75455
Nippon Central Office	FM2475 Queen City Road	Wills Point	TX	75169
Twining Central Office	W. North & Austin Avenue	Edgewood	TX	75117
442 Central Office- Hillcrest	606 Avenue E	Cisco	TX	76437
Randolph Central Office	319 W. Bluff	Grandbury	TX	76048
Mineral Wells Central Office	200 North East I Avenue	Mineral Wells	TX	76086
Graham Central Office	800 Cherry Street	Graham	TX	76450
Newton Central Office	100 May Street	Royse City	TX	75189
Carter Toll Office	FAA Access Road-Amon	Fort Worth	TX	76155
Taylor 821 Central Office	4211 Bryan Street	Dallas	TX	75204

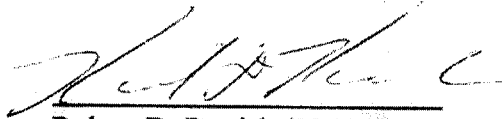
<b>Name of Building</b>	<b>Street</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
Comptroller Building (Accounting)	9051 Parkwest	Houston	TX	77063
Houston Wesleyan Toll	3303 Wesleyan	Houston	TX	77027
Prescott Central Office	8803 Brae Acres	Houston	TX	77074
Bellville C.O. PB Rem	104 West Luhn	Bellville	TX	77418
Sealy Turner C.O.	603 Fowlkes	Sealy	TX	77472
Nasa Toll Office	1102 2nd Street	Houston	TX	77058
Klein Central Office	7638 Cypress Springs	Klein	TX	77379
Underwood Central Office	750 Heights Boulevard	Houston	TX	77007
Lumberton Central Office	630 Lindsey	Lumberton	TX	77711
Kirbyville Central Office & Storage	306 E. Lavielle	Kirbyville	TX	75956
Mauriceville Central Office	Highway 1136	Mauriceville	TX	77626
Orange Central Office	702 Elm	Orange	TX	77630
Sabine Pass	8th & Canal Street	Sabine Pass	TX	77655
El Paso Main Codo	500 Texas	El Paso	TX	79901
El Paso Southeast Central Office	6045 Greims	El Paso	TX	79905
El Paso McCombs Central Office	5845 Sean Haggerty	El Paso	TX	79924
San Antonio Capital Toll	105 Auditorium Cir	San Antonio	TX	78205
San Antonio Babcock 696 C.O.	10525 Huebner Rd	San Antonio	TX	78213
San Antonio Pershing 732 C.O.	110 Warner	San Antonio	TX	78201
Tulip Toll Building	406 N. Carancahua	Corpus Christi	TX	78401
San Antonio Westmore Central Office	17219 San Pedro Ave	San Antonio	TX	78232
Corpus Christi Butler Central Office	721 Corn Products	Corpus Christi	TX	78410
Lubbock Porter Sherwood Condo	1405 Main Street	Lubbock	TX	79401
Midland Mutual Toll Building	410 West Missouri	Midland	TX	79701
Washington Toll Building	925 Washington	Waco	TX	76701
Lakeway Central Office	1100 Lohmans Crossing	Austin	TX	78734
264 Bee Creek Central Office	Rt.1 Box 59-M	Austin	TX	78746
442 Hickory Central Office	201 Cumberland	Austin	TX	78704
939 Belton Central Office	318 Main	Belton	TX	76501
Austin Customer Service Center	3707 South 2nd Street	Austin	TX	78704
Abilene Orchard Central Office	365 Cedar Street	Abilene	TX	79601
Abilene Owen Central Office	2626 Post Oak Road	Abilene	TX	79605
Amarillo Fleetwood Central Office	3326 Western	Amarillo	TX	79110
Terminal Central Office	2800 La Force Drive	Midland	TX	79711

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Complaint and Notice of Opportunity for Hearing in In the Matter of Southwestern Bell Telephone Company Docket No. CWA-HQ-99-002 has been filed with the Headquarters Hearing Clerk, and that a true and correct copy was sent by Certified Mail to:

Walter Theiss, Esquire  
Southwestern Bell Telephone Company  
One Bell Plaza  
208 South Akard  
Suite 2900  
Dallas, TX 75202

1/25/99  
Date

  
Robert D. Parrish (2248A)  
Multimedia Enforcement Division  
Office of Regulatory Enforcement  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460  
202-564-6946